Notre Dame Law Review

Volume 24 | Issue 1 Article 2

10-1-1948

Practical Aspects of Multiple State Taxation of Intangibles of Nonresident Decedents Since the Aldrich Case

Warren Freedman

PRACTICAL ASPECTS OF MULTIPLE STATE TAXATION OF INTANGIBLES OF NONRESIDENT DECEDENTS SINCE THE *ALDRICH* CASE

The evils of multiple state taxation of intangibles owned by nonresidents, following the *Aldrich* case in 1942,[1] were imaginatively described in the dissenting opinion of Mr. Justice Jackson,[2] but today his remarks find little significance in reality. Despite the anticipated greed of tax-hungry states the problem has been somewhat mitigated by the willing and cooperative attitude of the several states as expressed in their immunity and reciprocity statutes.[3] For the purpose of immediate analysis, American jurisdictions [4] have been grouped in the following categories:

TABLE "A"

I. A. EXEMPTION or immunity of ALL intangibles owned by nonresidents:
   (1) by repeal of prior statutes—N. Y., CONN.
   (2) by Constitutional prohibition—DEL.
   (3) by statute—ARIZ., LA., MASS., MO., MINN., VT.
   (4) by negative inference in the statutes taxing tangible personalty—ARK., ME., N. J., TENN., VA.

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1 316 U.S. 174, 62 S.Ct. 1008, 86 L.Ed. 1358, 139 A.L.R. 1436 (1942).

2 Mr. Justice Jackson opined that only the state of domicile should be permitted to tax intangibles, and pointed out five effects of multiple taxation: (1) competitive exploitation, among the states, of intangibles as a source of death duties and the subordination and deferment by the state of domicile to the taxing power of the chartering state; (2) discrimination against intangibles will prejudice its investment value by handicapping ownership; (3) expensiveness of ascertaining taxes in chartering states; (4) domiciliary state will in effect be paying decedent's taxes where there is a credit provision; and (5) competitive use by the states will invite federal invasion of the death tax field.

3 Mr. Justice Frankfurter, who wrote the majority opinion, stated that the job of correcting the evils of multiple taxation would now be returned to "its proper place of state control through uniform and reciprocal legislation, through action by the states under the compact clause . . . or through whatever other means statesmen may devise for distributing wisely the total national income for governmental purposes between the states and the nation."

4 In this analysis, we shall include the forty-eight states, District of Columbia, the territories of Hawaii and Alaska, the Philippine Islands, and Puerto Rico.

B. EXEMPTION or immunity of ALL intangibles owned by nonresidents who are residents of the United States—WASH., FLA.

C. EXEMPTION or immunity of CERTAIN intangibles owned by nonresidents:
   (1) over which no power of appointment exists—R. I.
   (2) having no commercial or business situs in the state—N. C.
   (3) having no business situs in the state, if nonresident is a resident of the United States—D. C.
   (4) stock of domestic corporation owned by resident of the United States—KY.

II. A. RECIPROCAL EXEMPTION of ALL intangibles owned by nonresidents—CALIF., HAW., IDA., MD., MICH., N. H., N. M., OKLA., OHIO, ORE., PA., P. I., W. VA., WYO.

B. RECIPROCAL EXEMPTION of ALL intangibles owned by only nonresidents who are residents of the United States—ALAS., COLO., MISS., MONT., NEBR., S. D.

C. RECIPROCAL EXEMPTION of ALL intangibles owned by nonresidents, if the domiciliary state taxes such intangibles—ILL., IND., S. C., KANS.

D. RECIPROCAL EXEMPTION of ALL intangibles owned by only nonresidents who are residents of the United States, if the domiciliary state taxes such intangibles—IOWA, UTAH, TEXAS, WISC.

E. RECIPROCAL EXEMPTION of CERTAIN intangibles:
   (1) stock of domestic corporation—N. D.
   (2) having no business situs in state, except when held in trust by local trustee for which no domiciliary state taxes were paid—ALA.
   (3) held in trust by local trustee for resident of the United States—KY.
   (4) owned by nonresident of the United States only—FLA.

III. TAXATION of ALL intangibles owned by nonresidents, as authorized by statute—GA., P. R.

IV. NO DEATH TAXES WHATSOEVER—NEV.

It can thus be observed that, out of the fifty-three American jurisdictions noted above, thirty-one have enacted reciprocal exemption statutes, while only nineteen have optimistically rested upon exemption or immunity statutes, without reciprocal features, to lessen the impact of multiple state taxation.[5] Of the four most populated states (N. Y., Ill., Pa., and Calif.), only New York does not have a reciprocal statute today.[6] Success or failure of the measures taken to avoid double taxation depends, in a most realistic sense, upon the attitude of reciprocating states as to whether state A, B, or C is "reciprocal" with them; [7] and that fact, in turn, is determined, in practice both by the favorable immunity accorded citizens of the reciprocating state and the administrative assistance and co-operation given in collection of unpaid death taxes due the reciprocating state.[8]

One of the earlier efforts toward reciprocity was the short-lived movement initiated in 1903 by the enactment of a Connecticut statute [9] remitting inheritance taxes on *personalty* of nonresident decedents whose domiciliary state did

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5 The states of Kentucky and Florida have statutes which have both reciprocal and immunity features and are therefore described under both categories. REV. STAT. *of* KY. § 140.275 (Baldwin, 1946) expressly declares the legislative policy that "Kentucky shall not be a party to interstate double taxation." Kentucky also taxes intangibles of nonresidents of the United States at the flat rate of 5% even where the intangibles have no business situs in the State.

6 See N. Y. CONSOL. LAWS § 148p Art. 10-C (McKinney, 1943), repealed by § 249mm, effective Sept. 1, 1930; also N. Y. CONSOL. LAWS § 249p Art. 10-C (McKinney, 1943), and N. Y. CONSTITUTION, art. XVI, § 3, effective Nov. 8, 1938.

7 For example, Colorado whose present reciprocal exemption statute was enacted in 1943 lists itself as "reciprocal" with forty-two American jurisdictions and cites nine jurisdictions as "nonreciprocal", i.e. Ala., D. C., Ga., Ky., Mass., N. C., P. R., R. I., and Wis. Colorado is also "reciprocal" with twenty jurisdictions with respect to enforcement and collection of death taxes.

Maryland finds herself "reciprocal" with seven states; N. H. with twenty-five; and Pa. with thirty-five. The factors determining "reciprocity" vary from state to state, jurisdiction to jurisdiction, and no state has specifically cited its reasoning for so granting or refusing to recognize reciprocity.

8 See, generally, Note, 43 HARV. L. REV. 641-6 (1929). States sometimes rationalize the basis for taxation on the ground of benefit and protection conferred by them, and upon the fact of their actual power over or control of the object taxed. See *Aldrich* case, *supra,* note 1.

9 Conn. Laws 1903, c. 63, § 2; Gallop's Appeal, 76 Conn. 617, 57 Atl. 699 (1904). See, Starr, *Reciprocal and Retaliatory Legislation in the American States,* 21 MINN. L. REV. 371, 393 (1936).

not levy a similar tax upon estates of Connecticut decedents. The next year West Virginia and Vermont exempted all property of nonresident decedents without any demand for reciprocal exemption.[10] There followed Massachusetts in 1907,[11] Kansas and Maine in 1909,[12] and Minnesota in 1911,[13] but the Minnesota statute was interpreted as creating no exemption in favor of residents of states which either levied no inheritance tax at all, or levied no tax in like circumstances. The result was an ineffective statute which compelled states to re-enact taxation of intangibles of nonresidents with favored treatment to residents of reciprocating states in order to come within the provisions of such reciprocal statutes.[14] Connecticut repealed her statute in 1907 substituting the retaliatory feature[15] applying only to stock and registered bonds of domestic corporations held by nonresident decedents of some eight nonreciprocating states which were taxing Connecticut residents. West Virginia likewise changed her reciprocal law to a retaliatory one,[16] and by 1917 all the early statutes had been repealed.[17] The failure of any organized group to support reciprocity with vigor thus ended a fine effort at interstate cooperation.[18] Between 1919 and 1923 North Dakota, Arizona, and Mon-

10 W. Va. Laws 1904, c. 6, § 6; Vt. Laws 1904, No. 30, §§ 3, 4.

11 Mass. Laws 1907, c. 563, § 3, re-enacted in 1909, c.490.4, § 3 and in 1911 c. 502, § 1. This statute, like the Kansas statute, created exemption between reciprocating states and a state which exempted all estates of nonresidents from inheritance taxation. Bliss v. Bliss, 221 Mass. 201, 109 N.E. 148 (1915).

12 KAN. GEN. STAT., § 9266 (Danssler, 1909). See State v. Davis, 88 Kan. 849, 129 Pac. 1197 (1913). Maine Laws 1909, c. 187, § 7.

13 Minn. Laws 1911, c. 209, § 2(2). *See* State *ex rel.* Graff v. Probate Court, 128 Minn. 371, 150 N.W. 1094 (1915).

14 *Op. cit., supra,* note 8 at page 646.

15 Conn. Laws 1907, c. 179, §§ 1, 6. If the domiciliary state levied no tax at all, or only on property physically within the state, Connecticut did not tax the nonresident. See, *The Reciprocal Feature of the Act Concerning Taxes On Inheritances,* Connecticut Public Document No. 48, Special No. 4 (Hartford 1908), and the remarks of the then Tax Commissioner, W. H. Corbin. Also, 2 PROC. NATIONAL TAX ASSOC. 171-194 (1908).

16 W. Va. Laws 1909, c. 63, § 6.

17 Kans. Laws 1913, c. 330, § 1; Maine Laws 1917, c. 266, § 2; Mass. Laws 1912, c. 678, § 2; Minn. Laws 1913, c. 565, § 1; Vt. Laws 1912, No. 60, § 3.

18 Starr, *op. cit. supra,* note 9, at p. 394.

tana passed reciprocal laws [19] offering to exempt *tangibles* located outside the state, if the state in which the property was located similarly exempted their residents. But these laws were rendered meaningless by the *Frick* case [20] in 1925, which allowed only the state in which the tangibles had an actual situs to tax. However, in December 1924, after President Coolidge had publicly recommended correction of abuses in state inheritance taxation,[21] the Pennsylvania Tax Commission sent out an invitation to commissioners of neighboring states to meet with it at Harrisburg, Pa. Out of the discussions arose a plan of reciprocity and the unconditional abandonment of taxation of *intangibles* of nonresident decedents.[22] Within six months the legislatures of Pennsylvania, Connecticut, New York, and Massachusetts enacted the recommendations into law.[23] Two years later eight additional states had adopted reciprocity, and in 1929 there were twenty-five states which had joined the movement.[24] Most of these statutes were adopted from the model statutes of the National Tax Association and the National Commissioners on Uniform State Laws,[25] but there were suf-

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19 N. D. Laws 1919, c. 225, § 1 (1); also N. D. COMPL. LAWS SUPP., § 2346 (1925); Mont. Laws 1923, c. 65, § 4 (4); Ariz. Laws 1921, c. 26, § 4 (7) and ARIZ. CODE § 3162 (1928).

20 268 U.S. 473, 45 S.Ct. 603, 69 L.Ed. 1058 (1925).

21 10 BULL. N.T.A. 169-171 (1925).

22 20 PROC. N.T.A. 415-31 (1927).

23 Pa. Laws 1925, No. 381, § 1d; Conn. Laws 1925, c. 239; N. Y. Laws 1925, c. 143; Mass. Laws 1925, c. 338. See, also, 10 BULL. N.T.A. 265 (1925).

24 Ky. Laws 1926, c. 176, § 2; Calif. Laws 1927, c. 646; Ga. Laws 1929, No. 331, § 5; Ill. Laws 1927, p. 748; Maine Laws 1927, c. 231; Md. Laws 1927, c. 330; N. H. Laws 1927, c. 104; Ohio Laws 1927, p. 103; Ore. Laws 1927, c. 118, § 1; Miss. Laws 1928, c. 191; Ark. Laws 1929, § 2; Idaho Laws 1929, c. 243, § 8; Ind. Laws 1929, c. 65, § 4; Iowa Laws 1929, c. 203; S. C. Laws 1929, No. 194; Texas Laws 1929 First Sess., c. 501; Wash. Laws 1929, c. 220; W. Va. Laws 1929, c. 57; and Wyo. Laws 1929, c. 111.

25 "No tax shall be imposed in respect of personal property (except tangible personal property having an actual situs in this state) if (a) the transferor at the time of the transfer was a resident of a state or territory of the United States, or of any foreign country which at the time of the transfer did not impose a transfer tax or death tax of any character in respect of personal property of residents in this State (except tangible personal property having an actual situs in such state or foreign country) or, (b) if the laws of the state, territory or country of residence of the transferor at the time of the transfer contained a reciprocal exemption provision under which nonresidents were exempted from

ficient variations and modifications in the legislative enactments to produce uncertainties and litigation. The courts nullified many statutes by looking at the administrative practices of the states to see if reciprocity actually existed.[26] Even the NTA which sponsored the reciprocal legislation on intangibles lost hope and rejected it in favor of interstate compacts in 1931 and 1935.[27] Despite the ineffectiveness of such statutes the zenith of the reciprocity movement was reached in 1930 when thirty-seven states had reciprocal exemption statutes.[28] But in 1932, after the United States Supreme Court had decided the *First National Bank of Boston,* the *Baldwin,* and the *Farmers' Loan & Trust Company* cases,[29] in which the concept of "single taxation" was restored, the states no longer needed the shelter of reciprocity for their residents; yet, only a few states bothered to repeal these statutes! [30] The rule of immunity against "double

transfer taxes or death taxes of every character in respect of personal property (except tangible personal property having an actual situs therein), provided the state, territory, or country of resilence of such nonresident allowed a similar exemption to residents of the state, territory, or country of residence of such transferor. For the purposes of this section the District of Columbia, Puerto Rico, and the possessions of the United States shall be considered territories of the United States."

26 See, City Bank Farmers Trust Company v. New York Central Railroad, 253 N. Y. 49, 170 N. E. 489 (1930). *Cf.* Mr. Justice Frankfurter in the *Aldrich* case, *supra,* note 1, at page 184: "But even if it were possible to make the needed adjustments in the fiscal relations of the States to one another and to the federal government through the process of episodic litigation—which to me seems most ill-adopted for devising fiscal policies—it is enough that our Constitutional system denies such a function to this court."

27 24 PROC. N.T.A. 381, 393 (1931) and 28 PROC. N.T.A. 201-12 (1935).

28 23 PROC. N.T.A. 339 *et seq.* (1930).

29 First National Bank of Boston v. State of Maine, 284 U. S. 312, 52 S. Ct. 174, 76 L.Ed. 313, 77 A.L.R. 1401 (1932); Farmers Loan and Trust Company v. State of Minnesota, 280 U. S. 204, 50 S.Ct. 98, 74 L.Ed. 371, 65 A.L.R. 1000 (1929); and Baldwin v. State of Missouri, 281 U.S. 586, 50 S.Ct. 436, 74 L.Ed. 1056, 72 A.L.R. 1303 (1930). These cases, in effect, overruled the leading case of multiple taxation, Blackstone v. Miller, 188 U.S. 189, 23 S.Ct. 277, 47 L.Ed. 439 (1903), wherein New York and Illinois were permitted to tax the debts owed by New York debtors to an Illinois decedent. The *Aldrich* case truly reinstated the *Blackstone* decision.

30 Note, *Reciprocity in Nondomiciliary Inheritance Taxation of Intangibles,* 26 IOWA L. REV. 694, 699, 700 (1940). By the fifteenth of July, 1939, only Ala. Mo., N. C., and Wash. had repealed these statutes. See Tweed & Sargent, *Death Taxes Are Certain—But, What of Domicile?,* 53 HARV. L. REV. 68 (1939).

taxation" was repeatedly rejected in subsequent cases, and the *Aldrich* case in 1942,[31] following on the heels of *Illinois Central Railroad Company v. State of Minnesota*[32] and *Curry v. McCanless*,[33] completely discarded the single taxation theory. Thus, the need for reciprocity and interstate agreement is still pressing today.[34]

There are at least thirty-five American jurisdictions today which have both an inheritance tax and an additional estate tax for purposes of credit under the federal estate tax law.[35] Six states have an inheritance tax only; seven, an estate tax only; and three states have an estate tax for federal

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31 *Supra*, Note 1.

32 309 U. S. 157, 60 S.Ct. 419, 84 L.Ed. 670 (1940).

33 307 U.S. 357, 59 S.Ct. 900, 83 L.Ed. 1339 (1940), which held that the Fifth Amendment did not require a single exclusive place of taxation of intangibles for the benefit of their foreign owner. There can be no question of the taxing power of a state, for according to Mr. Justice Frankfurter in the *Aldrich* case, there are but three limitations: (1) no state can without consent of Congress lay any imposts or duties on exports or imports, except as necessary for executing its inspection laws, Art. I, § 10, cl. 2; (2) no state can without consent of Congress lay any tonnage duties, Art. I, § 10, cl. 3; and (3) by virtue of the Commerce Clause, no state can tax as to discriminate against interstate commerce, Art. I, § 8, cl. 3.

Cf. State of Wisconsin v. J. C. Penney Co., 311 U. S. 435, 444; 61 S. Ct. 246, 85 L.Ed. 267, 130 A.L.R. 1229 (1940): "A State is free to pursue its own fiscal policies, unembarrassed by the Constitution, if by the practical operation of a tax the State has exerted its power in relation to opportunities which it has given, to protection which it has afforded, to benefits which it has conferred by the fact of being an orderly civilized society."

Also, Graves v. Schmidlapp, 315 U. S. 657, 62 S.Ct. 870, 86 L.Ed. 1097 (1942); *In re* Provident Trust Co. of Philadelphia, 346 Pa. 37, 42; 29 A. (2d) 524, 527 (1943) where Pennsylvania taxed the intangibles owned by a nonresident who was a minor under the guardianship of a Pennsylvania resident who had legal title. And, also, the *Greenough* case, 331 U.S. 486, 67 S.Ct. 1400, 91 L.Ed. 1274 (1947), and 25 TAXES MAG. 212, 214 (1946).

34 The June 29, 1942 issue of Barron's National Financial Weekly described the *Aldrich* case as "the most confusing and shocking to estate owners within the past decade." The fear that American trade would be "balkanized" was also expressed, Duckworth v. Arkansas, 314 U.S. 390, 400; 62 S.Ct. 311, 86 L.Ed. 294 (1941). See Faught, *Reciprocity in State Taxation as the Next Step in Empirical Legislation*, 92 U. OF PA. L. REV. 258, 263 (1934): "The signposts discernible in the various opinions in the *Aldrich* case point in one direction. The unwholesome conflicts between the several States in competitive taxation may in time be diminished or eliminated by such means as uniform or reciprocal legislation."

35 See TABLE "B". Florida, Georgia and Alabama are the states having estate taxes for federal credit only. See Florida v. Mellon, 273 U. S. 12, 47 S. Ct. 265, 71 L.Ed. 511 (1927), holding that, although Florida imposed no inheritance taxes, Florida could not restrain other states from collecting in Florida federal estate taxes. Florida residents could get credit only for state taxes paid.

credit only. Thirteen states have a gift tax in addition to their death taxes. Perhaps Rhode Island has the greatest variety, i.e., an estate tax, inheritance tax, gift tax, and estate tax for federal credit. Only Nevada has no death taxes whatsoever.[36] Thus, the wide prevalence of transfer and death taxes among the several states focuses the problem[37] of alleviating the appetites of such tax-hungry jurisdictions.

Reciprocal exemption statutes take various forms. The most satisfactory is the Uniform Reciprocal Transfer Tax Act, which is the current law of only fourteen states.[38] Reciprocal exemption is granted if the other state: (a) does not impose a tax, or (b) has a reciprocal statute. Inclusion of both provisions in a statute makes for greater uniformity; yet Indiana and Illinois[39] have adopted only (b), i.e., reciprocal exemption for nonresidents only if the domiciliary state taxes such intangibles. Alabama, California, Missouri, Kentucky, New York, and Washington have either repealed or omitted to re-enact the Uniform Act,[40] and South Dakota

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36 Nevada repealed an inheritance tax statute, effective July 1, 1925. Only after November 3, 1942, are death taxes specifically prohibited by § 1, Article X of the Nevada Constitution.

37 See, generally, Tweed & Sargent, *supra* note 30. The estimated state collections for death and gift taxes in 1943 were $100,000,000, in contrast to $112,000,000 in 1942 before the *Aldrich* case. In 1945 collections exceeded $131,000,000. C.C.H. TAX SYSTEMS OF THE WORLD (10th Ed.), 314.

38 Alaska Laws 1933, c. 93, § 3111; HAWAII REV. LAWS, c. 103, § 5561 (1945); IDAHO CODE, § 14-401 to -428 (Bobbs-Merrill, 1932); Ill. Laws (1909), p. 311; Ind. Laws, 1931, c. 75, § 27; Ill. Laws (1909), p. 311. South Carolina and Kansas similarly interpret their statutes, although it is not the Uniform Act, *supra,* note 38, and KANS. GEN. STAT., c. 75, § 79-1501e (1935), amended c. 369, Laws of 1941.

39 Ind. Laws 1931, c. 75 § 27; Ill. Laws 1909, p. 311.

40 In Alabama the Uniform Act—Ala. Laws 1932 Sp. Sess., § 7(12) of Act 59,—was omitted in Ala. Laws 1935, Act 194. Alabama today grants reciprocal exemption only of intangibles which have not gained a business situs, except for intangibles held in trust with Alabama trustee for which no domiciliary State tax has been paid. ALA. CODE, § 438(1) (1940).

In California the Uniform Act was repealed but the current law, CALIF. STATS., c. 658, § 1 (1943), is substantially similar language. *See also:* Estate of H. P. Dargie, 48 Cal. App. (2d) 101, 119 P. (2d) 438 (1941).

In Missouri the Uniform Act, Mo. R. S. § 576 (1929), was repealed by Laws 1939, § 574, p. 182. Laws 1941, p.281, did not re-enact the repealed statute, but amended § 571 exempting all intangibles.

In New York the Uniform Act was repealed. See N. Y. CONSOL. LAWS, § 249mm (McKinney, 1943), effective Sept. 1, 1930. See *supra* note 6.

In Kentucky the Uniform Act was last repealed before 1939; see *supra* note 30.

is the most recent state to have adopted the Act.[41] The statutes of five other states, however, closely follows the language of the Uniform Act.[42] Thus, at least twenty-two out of thirty-one jurisdictions having reciprocal exemption statutes find most of their statutory language in the Act. But this uniformity is hardly true, for modifications and additions to the language, court decisions by uninformed judges, and administrative rulings by politically-appointed commissioners have made at least eight distinctions in types of categories among the reciprocal exemption statutes.[43] This difficulty has been well described:

> The resultant confusion points to a caveat for reciprocal legislation: variation in terminology means doubt as to the existence of reciprocity between two States. It is difficult to see how States requiring an unconditional exemption of their own residents fit into the scheme with other States, or indeed with one another. Furthermore, every State which attempts to grant reciprocity is confronted with a miscellaneous group of statutes which fit no classification. Variant judicial and administrative rulings as to what constitutes tangible and intangible property make it chaotically uncertain whether one State, in spite of its statute, is entitled to reciprocity with

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41 S.B. 59, Laws of 1945, effective July 1, 1945.

42 Colo. Laws 1943, c. 116, § 6(b) (3); MISS. CODE OF 1942, Title 36, c. 2, § 9269—Mississippi curiously enough, after the *Aldrich* case, gave public notice of its intention to continue to adhere to the theory of single taxation expressed in the *First National Bank of Boston* case, *supra* note 29, and LTR. of State Tax Commission (Sept. 11, 1942); Mont. Laws of 1945, H.B. 22—Montana indicated that the *Aldrich* case had restored § 10400.11, REVISED CODES OF MONTANA (1935), to full effectiveness! N. H. REVISED LAWS 1942, c. 89, § 29; OHIO GENERAL CODE, § 5334-1 (Page, 1945). The language of the Ohio statute resembles Part (b) of the Uniform Act, but Ohio courts have added (a) by interpretation, and the statute is in all respects the entire Uniform Act. See RULING OF THE TAX COMMISSION OF OHIO, July 7, 1939.

Five other states have statutes which prescribe "like exemptions", the vagueness of which has only added to the confusion: Utah Laws 1943, c. 89, § 80-12-9; WISC. STAT., c. 72, § 72.01 (9) (1947); Okla. Laws of 1945, c. 22, § 989e; ORE. COMPIL. LAWS ANN., Title 20, § 20-104 (Bancroft-Whitney, 1940); and N. M. STAT. ANN., § 34-104 (Bobbs-Merrill, 1941).

43 See TABLE "A". The Philippine Islands, though allowing reciprocal exemption subjected to taxation the stock in a Philippine partnership owned by a resident of California held for her in the Philippines by a native trustee who had complete powers thereover, Wells Fargo Bank & Trust Co. v. Collector, P. I. Supreme Court, June 28, 1940; *cert. den.* 312 U. S. 700, 61 S.Ct. 741, 85 L.Ed. 1134 (1941).

another. The reciprocal relation is a myth to the extent that uniform words are given varying meanings.[44]

Another category of statutes which seek to cast off the burden of multiple taxation are the exemption or immunity statutes without reciprocal features. This is perhaps the more genuine and sincere effort, and thirteen states [45] which exempt *all* intangibles of nonresidents have individually decided that "a State gains more by stimulating the business of its banks, trust companies, and brokers than it would gain by attempting to tax intangibles of nonresidents held in the State on deposit, in custody, or in trust." [46] These states seem satisfied with the benefits of reciprocity and are not saddened by the seeming loss of revenue. In Delaware the exemption provisions were embodied as a constitutional prohibition [47] to facilitate the transfer of stock under

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44 Note, *Reciprocal and Retaliatory Tax Statutes,* 43 HARV. L. REV. 641, 643 (1929). Two other interesting problems concern the effective date of the reciprocal exemption statutes and the international aspect of reciprocity: (1) In the absence of a specific provision to the contrary, reciprocal statutes operate prospectively and not retroactively. See Fisher v. Bruckner, 41 F. (2d) 774 (D. C. Mich. 1930), but note that California's then enacting statute of July 29, 1927, granted reciprocity to residents of Iowa from July 4, 1927, the effective date of the Iowa statute. *Cf.* City Bank Farmers Trust Co., *supra,* note 26, and Commission v. Farmers Loan & Trust Co., 297 Pa. 335, 147 A. 71 (1929). Also, the effective dates of a state listed as "reciprocal" may vary from its actual effective date when cited by the reciprocating state! (2) Many states such as Pennsylvania and New Hampshire have reciprocity agreements with such foreign countries as the Kingdom of Denmark and the Canadian provinces, respectively. But, in general, there is nothing, except a treaty between the United States and the foreign government (See Nielson v. Johnson, 279 U. S. 47, 49 S.Ct. 223, 73 L.Ed. 607 (1929)) to prevent a state from imposing a greater tax upon property passing to nonresident aliens. Petersen v. State, 245 U. S. 170, 38 S.Ct. 109, 62 L.Ed. 225 (1917), Frederickson v. State, 63 U. S. 445, 16 L.Ed. 376 (1859).

45 Ark. Laws 1941, Art. 136; ARIZ. CODE ANN., c. 40 (1939); Conn. Laws 1937, c. 19, § 1; DEL. REV. CODE, Art. 10, c. 6, § 101 (1936); La. Laws 1940, Act 67; MAINE REV. STAT., c. 142, § 21 (1944); MINN. STAT., § 291.01 (1) (4) (1945); MO. REV. STAT., § 571 (1939); N. J. REV. STAT., 54:34-1 (1937); N. Y. CONSOL. LAWS, c. 60, Art. 10-C, § 249p (McKinney, 1943); TENN. CODE, Art. X, c. 1, § 1259 (1b) (1932) Vt. Laws 1896, C. 45, § 1048; and Va. Tax Code, c. 9, § 120 (1) (1936).

46 See Tweed & Sargent, *supra,* note 30. It would be a denial of due process for the legislature to attempt to revoke an exemption granted in respect to past exemption: Untermeyer v. Anderson, 276 U. S. 440, 48 S.Ct. 353, 72 L.Ed. 645 (1928).

47 Art. IX, § 6 of the DELAWARE CONSTITUTION, 22 Del. Laws, c. 254; also, DEL. REV. CODE, c. 6, Art. 10 (1936).

the liberal corporation laws of that state. Other methods of exemption are by express statute,[48] by repeal of existing statute[49] and without a statute, by negative inference.[50] But still variations occur, for at least six states exempt only *certain* intangibles.[51] In particular, the District of Columbia, Kentucky, and Rhode Island have been cited as "non-reciprocal" with other states.[52] Wisconsin, having a reciprocal exemption statute, has found New York's exemption statute "fully reciprocal," however; and therefore assessed no inheritance tax on the transfer of personalty on the death of a New York decedent.[53] Even Washington, whose statute exempts only intangibles owned by residents of the United States, was held "reciprocal" with Idaho under the Idaho reciprocal exemption statute.[54] Though New York regards itself as "reciprocal" with all other states by exempting all intangibles, too many states with reciprocal exemption statutes do not accord New York the same privilege. Exemption statutes, ipso facto, do not provide full protection, unless uniformly adopted without qualification.

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48 ARIZ. CODE ANN., c. 40 (1939); La. Laws 1940, Act 67, but an OP. ATTY. GEN. dated Nov. 20, 1946, advocated taxing the bank account of a deceased Mexican if over $2000, and if he owned Louisiana real estate; MINN. STAT. § 291.01 (1) (4) (1945); Mo. REV. STAT., §. 571 (1939;); Vt. Laws 1896, c. 46, § 1048. Massachusetts does exempt intangibles under the inheritance tax law (Gen. Laws of 1932, c. 65, § 1), but under the additional estate tax for federal credit, intangibles of nonresidents of the United States are taxable.

49 Connecticut and New York.

50 The Va., Ark., Tenn., Maine, and N. J. statutes expressly tax realty and tangible personal property, omitting all reference to intangibles.

51 See TABLE "A". After the *Aldrich* case it is doubtful if these statutes exempting only *certain* intangibles can secure to their residents the benefit of reciprocal exemption. Rhode Island (*Ltr. of Div. of Taxation,* Aug. 10, 1942) declared that no change was contemplated after the *Aldrich* case unless retaliatory legislation becomes necessary.

52 *Supra,* note 9. Pennsylvania and New Hampshire also regard these states as "nonreciprocal" but Maryland says "reciprocity" may exist with the District of Columbia. It is thus doubtful if these statutes solve anything.

53 Estate of Uihlein, 247 Wisc. 476, 20 N.W. (2d) 120 (1945), discussed in Wisconsin L. R. 139 (1946). *See also,* Estate of Rohnert, 244 Wisc. 404, 12 N.W. (2d) 684 (1944).

54 McNaughton v. Newport, 170 P. (2d) 601 (1946). *Cf.* Estate of Eilermann, 179 Wash. 15, 35 P. (2d) 763 (1934) where Washington and New Jersey were involved.

Only two American jurisdictions have statutes which authorize taxation of intangibles without reference to reciprocity or exemption.[55] But the Georgia decisions [56] show the reluctance, and perhaps fear, that failure to grant exemptions or accord reciprocity will make Georgia residents and decedents the target of transfer and death taxes everywhere! There is insufficient data on Puerto Rico to understand its attitude properly.

Whether a jurisdiction has reciprocal exemption or exemption statutes, there have been in the last fifteen years statutes passed in twenty-two states [57] providing for reciprocal enforcement and collection of transfer and death taxes and supplementing the basic statutes. These reciprocal enforcement statutes take two forms: (1) where nonresident estate is being administered in local probate courts, the tax authorities of the domiciliary state are notified of the filing of letters testamentary or of administration, and such taxes are to be paid before final accounting is approved, if both states are on a reciprocal basis; and (2) where local courts are empowered to entertain suits, on a reciprocal basis, by taxing officials of the domiciliary state to collect unpaid taxes without need for bringing suit upon judgment already obtained.[58] Under the latter form, there is no provision for

55 GA. CODE, Part X, c. 92034 (1946), effective Mar. 26, 1941; P. R. Laws 1946, Act No. 303.

56 In National Mortgage Corporation v. Suttles, 194 Ga. 772, 22 S.E. (2d) 386, 389 (1942), a promissory note of a Georgia resident owned by a nonresident and held outside the state was not taxed; "These decisions imply it is the intent and policy of our State constitution that Georgia's jurisdiction to tax is limited territorially to Georgia, and that it cannot reach out into the bounds of other states. According to these decisions, there must be a tax situs in Georgia and the mere residence of the debtor does not establish such a situs." The *Aldrich* case has been expressly distinguished in Georgia as involving "succession and not ad valorem taxes." See Davis v. Metropolitan Life Insurance Co., 194 Ga. 772, 26 S.E. (2d) 618, 624 (1943), and Davis v. Penn Mutual Life Insurance Co., 198 Ga. 558, 32 S.E. (2d) 180, 194 (1944).

57 Alabama, California, Colorado, Connecticut, Delaware, Kentucky, Maine, Maryland, Michigan, Mississippi, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Virginia, and Wisconsin.

58 See, generally, C.C.H. INHERITANCE, ESTATE AND GIFT TAX SERVICE, *Reciprocal Enforcement of Domiciliary Inheritance Taxation in Nonresident Estates,*

giving of notice other than by suit, and only four states [59] use this procedure in their statutes. In either case such reciprocal enforcement statutes extricate nonresident decedents from the problem of the *Massachusetts v. Missouri* case [60] which denied that any contract right was conferred upon Massachusetts as the beneficiary state by the enactment of a reciprocal exemption statute in Missouri to enforce Missouri's statute in favor of a Massachusetts resident who died in Missouri. The Supreme Court relegated the parties to the Missouri courts or the federal district court in Missouri. In reality, therefore, the effectiveness of such enforcement statutes similarly depends upon a reciprocating state looking upon another state as "reciprocal" with it, perhaps when the other state gives reasonable assurance

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§§ 12,030 and 2290. Connecticut which exempts all intangibles has only an "estate tax" of penalties when taxes are overdue for five years!

59 Ala. Laws 1947, House Bill 184, effective Oct. 9, 1947; Miss. Laws 1934, c. 130, effective March 6, 1934; Ore. Laws, c. 103 and c. 387, effective June 11, 1935, with amendment July 5, 1947, respectively 1935, 1947; Wisc. Laws 1947, c. 409.

The majority of States follow the former form: CALIF. POL. CODE, § 3671e (Deering, 1937), effective Aug. 27, 1937; Colo. Laws 1941, H.B. 399, effective Apr. 19, 1941; Conn. Laws 1933, c. 75, effective Apr. 4, 1933; Del. Laws 1939, c. 138, effective Apr. 14, 1939; Ky. Laws 1936, 3rd Spec. Sess., c. 8, effective Apr. 24, 1936; Maine Laws 1933, c. 147, effective June 30, 1933; MD. ANN. CODE, § 140 (1939), effective Apr. 4, 1936; Mich. Public Acts 1937, Act. 76, effective Oct. 27, 1937; Mass. Laws 1933, c. 319, effective Oct. 6, 1933; N. H. Laws 1933, c. 77, effective Apr. 18, 1933; N. J. Laws 1932, c. 49, effective Apr. 6, 1932; N. Y. Laws 1932, c. 333, effective Mar. 21, 1932; N. C. Laws 1935, c. 371, effective June 10, 1935; Ohio Laws 1933, vol. 115, p. 69 Sp. Sess., effective Sept. 22, 1933; Okla. Laws 1939, c. 66, effective Apr. 10, 1939; Pa. Laws 1933, Act 147, effective Sept. 1, 1933; R. I. Laws 1932, c. 1963, effective Apr. 21, 1932; and Va. Laws, 1932, c. 194, effective June 20, 1932.

The New York statute is typical of the majority and applies only to states which have passed a similar act, and to states which do not grant letters in estates of decedents until after letters have been issued by the state of domicile. Every petition of nonresident decedents for original letters testamentary or of administration must cite the Tax Commission which shall notify authorities of domiciliary state of the fact of filing, of the property and valuation thereof. No final accounting can be had until proof of all death taxes due domiciliary State are paid.

60 308 U. S. 1, 60 S.Ct. 39, 84 L.Ed. 3 (1939). *Cf.* State *ex rel.* Oklahoma Tax Commission v. Rodgers, 193 S.W. (2d) 919, 165 A.L.R. 785 (1946).

of assistance in the collection of unpaid taxes. Only a truly uniform statute which the courts and administrative officials seek to apply uniformly will insure effective relief.

States have also adopted precautionary measures to safeguard their taxing rights where the other state is "non-reciprocating". The consent of some state official is usually required to transfer stock of a domestic corporation owned by a nonresident decedent. Approximately sixty per cent of American jurisdictions require a waiver before transfer,[61] except perhaps for stock of a foreign corporation. Colorado requires a waiver if the aggregate value of securities held by a nonresident decedent in any one corporation exceeds $300.[62] Louisiana requires a waiver for stock customarily held in the state or present there at death.[63] Nebraska has no waiver but makes the corporation liable for unpaid taxes on stock owned by nonresidents at death,[64] while Pennsylvania and Wisconsin require a waiver, except where the stock was jointly held by husband and wife.[65]

Somewhat in recognition of the necessity for forbearance on the part of tax-hungry states and of the fact that federal courts customarily decline jurisdiction where two states have determined domicile of a decedent differently [66] provisions for compromise and arbitration have been inserted in reciprocal exemption and exemption statutes. Eleven states so provide, five of which allow for both compromise and arbi-

61 Inheritance Tax Waivers, C.C.H. INHERITANCE, ESTATE, AND GIFT TAX SERVICE, §§ 13,200 and 2310. Curiously, Florida has no waiver requirement, but requires aliens to pay one dollar to obtain it!

62 COLO. STAT. ANN., c. 85 (1935).

63 La. S.S. Laws, 121, Act. 127.

64 NEBR. REV. STAT., c. 77 (1943).

65 Pa. Laws (1933), Act 147, and WIS. STAT., c. 72 (1947).

66 Massachusetts v. Missouri, *supra*, note 60. *Cf.* Worcester Co. Tr. Co. v. Riley, 302 U. S. 292, 58 S. Ct. 185, 82 L.Ed. 268 (1937); Colorado v. Harbeck, 232 N. Y. 71, 133 N.E. 357 (1921), and Matter of Martin, 255 N. Y. 359, 173 N.E. 878 (1931).

tration,[67] while the others recognize compromise only.[68] Maryland and Vermont are the only jurisdictions to have adopted the Uniform Act of Interstate Arbitration of Death Taxes, and the Uniform Act of Interstate Compromise of Death Taxes, which provide for action by the Tax Commissioner or State Controller with the approval of the Attorney General.[69] In California a state court must approve the compromise agreement,[70] while in New Hampshire the Assistant Attorney General is empowered alone to effect the compromise.[71] New York, New Jersey, and Massachusetts invest full authority in the Tax Commissioner or the Director of the Division of Taxation.[72] Connecticut requires approval of both the Governor and the Attorney General [73]—and there are many more wide variations. The Uniform Acts make it unnecessary, however, for a beneficiary or donee to intervene in proceedings of compromise or arbitration; the responsibility is placed on the administrator or executor to whom the tax authorities look for payment of the tax. The sound view of the Act should be uniformly adopted; rebates and special favored treatment then have less opportunity to prevail.

II

In addition to these statutory modes of reciprocity and exemption, many other suggestions for easing the burden

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67 Conn. Laws 1947, c. 426; Del. Laws 1941, c. 5; MD. ANN. CODE, § 140A-140M, and § 140N-140Q (1939); Mass. Gen. Laws 1932, c. 65B, effective June 4, 1943; Vt. Public Acts 1947, Acts 22 and 23.

68 CALIF. REVENUE AND TAXATION CODE, § 14191, 14192; D. C. in STAT. (1937), c. 690, Art. III, § 16; N. H. REV. LAWS, c. 87, § 65 (1942); N. J. R. S. Title 54, c. 38A (1937); N. Y. CONSOL. LAWS, Art. 10-C, c. 60, § 249o, (McKinney, 1943); and Pa. Laws 1919, Act. 258, § 43.

69 *Supra,* note 68.

70 *Ibid.,* note 68.

71 *Ibid.,* note 68.

72 *Ibid.,* note 68.

73 *Ibid.,* note 68.

of multiple taxation have been heard. Interstate compacts under Article I, Section 10, Clause 3 of the Constitution of the United States would bind the states concerned into an enforceable agreement but would require congressional consent to become operative.[74] To effect any change in the language of the compact would require the consent again of both states and the approval of Congress. Such procedure hardly commends itself to administrative efficiency, though Congress could pass a general enabling act consenting in advance to such compacts and subsequent changes.[75] Only one example of an interstate compact affecting tax conflicts had been found before 1925,[76] and this agreement between Kansas and Missouri required a joint resolution of Congress.[77] Other administrative difficulties make compacts impractical.[78]

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74 *See,* generally, Clark, *Interstate Compacts and Social Legislation,* 50 POL. SCI. Q. 502, 507 (1935).

75 Clark, *op. cit., supra,* note 74, at page 520, commenting upon the enthusiasm for the idea of blanket consent at the Second Interstate Assembly in 1935, and citing 8 STATE GOVERNMENT 102 (Apr. 1935, No. 4).

76 Kansas City Waterworks Agreement of 1922 effected cooperation in the regulation and immunity from taxation by either state of waterworks situated in both states. The compact was ratified by Kansas in 1921 (Kans. Laws 1921, c. 304, p. 471) and by Missouri in the same year. (Mo. HOUSE J. 1258 (1921) and Mo. SENATE J. 932 (1921). On the 22nd of September 1922, consent was given by Congress in proper fashion, State v. Joslin, 116 Kans. 615, 227 Pac. 543 (1924), commented on in 19 ILL. L. R. 479.

77 42 STAT. 1058, 67th Cong., Sess. II (1922). States can give their consent to a compact by (1) joint resolution of state Legislature, State *ex rel.* Baird v. Joslin, *supra,* note 76; (2) statutory offer by one state and acceptance by another, C & O Canal Co. v. B & O Railroad Co., 4 G. & J. (Md.) 1 (1835); or, (3) parallel legislation incorporating agreement previously drafted by representatives of states who are parties to the compact.

Although congressional consent is necessary, an interstate agreement between Louisiana and Arkansas in 1886 was upheld without such consent in *Fisher v. Steele,* 39 La. Ann. 447, 1 So. 882 (1887). Louisiana had promised certain state taxes to be placed to the credit of certain levee districts "to be used . . . in constructing, repairing, and maintaining any and all levees in State of Arkansas (said State consenting) that will protect said district from overflow." La. Acts 1886, No. 79, 120. For a most thorough discussion of the subject generally, see

Another suggestion would provide for grants-in-aid by the Federal Government to states which abolished death taxes.[79] In effect, the Federal Government would collect higher taxes and share with the states on the basis of such factors as population, wealth, total collections within a state or area, etc., etc. The same authors [80] advocate, in the alternative, amending the federal estate tax law to grant eighty per cent state tax credit to those estates of taxpayers in states imposing death taxes on intangibles in accord with uniform federal stipulations. The merits of these proposals should attract attention, but the first step might be a nationwide survey in preparation of a congressional statute.[81]

Justice Jackson in his dissenting opinion in the *Aldrich* case [82] suggested federal incorporation to avoid the possibility of a corporation being held a domestic corporation in more than one state. The federal corporate charter would fix one state as the domiciliary state for all purposes including taxation in the same fashion as has been done in the case of national banks.[83] But federal incorporation would

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Frankfurter and Landis, *The Compact Clause of the Constitution—A Study in Interstate Adjustments*, 34 YALE L. J. 685, 704, 747, 753 (1925). For early case, see Gibbons v. Ogden, 8 Wheat. 1, 5 L.Ed. 547 (1823), and Virginia v. Tennessee, 148 U. S. 503, 517; 13 S. Ct. 728, 37 L. Ed. 537 (1893); also, Notes in 35 COL. L. REV. 76; 31 HARV. L. REV. 321; and 21 MINN. L. REV. 371.

78 *Cf.* Clark v. Allen, 331 U. S. 503, 517; 67 S.Ct. 1431, 91 L.Ed. 1285 (1947), upholding a California statute making the right of nonresident aliens to acquire property depend upon the reciprocal rights of American citizens in those countries. Perhaps the Supreme Court implied congressional consent to such a compact as being unnecessary!

79 Hellerstein & Hennefeld, *State Taxation in a National Economy*, 54 HARV. L. REV. 949, 973-5 (1941).

80 *Supra*, note 79, at page 971.

81 See, Gwin, White and Prince case, 305 U. S. 434, 449; 59 S.Ct. 325, 329; 83 L.Ed. 272 (1939) and McCarroll v. Dixie Greyhound Lines, 390 U. S. 176, 183, 186; 60 S.Ct. 504, 510; 84 L.Ed. 683 (1940).

82 316 U. S. 174, 62 S.Ct. 1008, 86 L.Ed. 1358 (1942).

83 REV. STAT. § 5219, as amended, 12 U.S.C. § 548 (1946). Tappan v. Merchants National Bank, 19 Wall. 490 (1873); *In re* Cushing's Estate, 40 Misc. 505, 82 N.Y.S. 795 (1903). *Cf. Re* Sherwood's Estate, 122 Wash 648, 211 Pac. 734

deprive the states of badly needed revenue for the operation of state governments.

Interstate cooperation in the form of a uniform flat-rate tax on all intangibles of nonresidents was actually adopted in five states before the New York flat-rate tax statute was held unconstitutional as violating both the equal protection and immunities clauses of the Federal Constitution.[84]

A former New York tax law[85] repealed in 1940 had allowed credits by domiciliary states for taxes paid to other states. But the enforcement of this provision was nullified by the practices of administrators and executors who thereby escaped payment of such taxes.

III

It is submitted that of the many suggestions advanced to protect against multiple taxation, uniform reciprocal exemption statutes, which will eventually become exemption statutes when all fifty-three American jurisdictions have complied with its purposes, offer the most helpful solution. The courts must assume the offensive in this drive for uniformity[86] and aid the process by interpreting and constru-

(1922), holding that 12 U.S.C. § 548 had no application to the Washington inheritance tax, and therefore states other than where a national bank is located could impose a tax on such shares of stock. See also, 36 STAT. 1902, 28 U.S.C. § 41 (16) (1946).

84 Smith v. Loughran, 245 N. Y. 486, 157 N.E. 753 (1927). The flat-rate plan was perhaps first sponsored by former Attorney General Matthews of New Hampshire (N. H. Laws 1921, c. 70, p. 75) and adopted by Connecticut, California, Kentucky, New York, and Virginia before 1927. See, 14 A.B.A.J. 309 (1928).

85 N. Y. CONSOL. LAWS, § 249o, Art. 10-C (McKinney, 1943), was repealed by N. Y. Laws 1940, c. 138. In the *Aldrich* case the New York statute had allowed as credit the amount of any constitutionally valid estate or inheritance tax paid to any other state within three years after the New York decedent's death.

86 Mr. Justice Frankfurter in the *Aldrich* case: "More basically, even though we believed that a different system should be designed to protect against multiple taxation, it is not our province to provide it." *Cf.* St. Louis Union Trust Co. v. State, 348 Mo. 725, 155 S.W. (2d) 107 (1941).

ing such uniform statutes to effectuate their general purpose, i.e., to make uniform the laws of those states enacting the statute.[87] Such encouragement will push states to regard all others as "reciprocal" with them and settle in a desirable manner the many perplexing problems about the nature of the property transferred [88] and any question of domicile.

Warren Freedman

87 9 UNIFORM LAWS ANN. 619 (1944).

88 At least two perplexing questions present themselves: If decedent made a transfer in contemplation of death of intangibles taxable in state other than domicile and transferee substitutes other property for that received, how will other state collect tax? Or, if transfer is in trust, will the right of states, other than those of decedent's and trustee's domiciles, to tax depend upon the nature of the property if the trust is not subject to any further action on the part of the transferor, and will the right of the state depend on the nature of the property held in trust at the time of the decedent's death if decedent had power of appointment or other power over trust?

Mr. Justice Jackson in the *Aldrich* case poses the question whether the decision to tax tangible property will not now have to be overhauled!

TABLE "B"

RECIPROCITY AND EXEMPTION OF DEATH TAXES IN AMERICAN JURISDICTIONS TODAY

	EC—Estate tax for fed. credit only E—Estate Tax I—Inheritance Tax G—Gift Tax	Reciprocal Exemption Statutes enacted L—like exemption	Uniform Reciprocal Transfer Tax Act adopted [Parts (a) & (b)] S—similar statute	Reciprocal Enforcement Statute adopted S--suit in State N—notice of filing	Exemption Statute adopted R—repeal; C—Constitution; N—negative inference; S—statute	Compromise Statutes adopted U—Uniform Act	Arbitration Statutes adopted U—Uniform Act	Waiver Requirement?
ALABAMA	EC	1940	omitted in 1935	1947-S	x	x	x	Yes
ALASKA	I	1933	1933	x	x	x	x	No
ARIZONA	E	x	x	x	1943-S	x	x	Yes
ARKANSAS	E	x	x	x	1945-N	x	x	No
CALIFORNIA	I, EC, G	1945	repealed	1937-N	x	1940	x	Yes
COLORADO	I, EC, G	1943	S	1941-N	x	x	x	Yes
CONNECTICUT	I, EC	x	x	1933-N	1929-R	x	1947	No
DELAWARE	I, EC	x	x	1939-N	1939-C	1947	1947	No
DISTRICT OF COLUMBIA	I, EC	x	x	x	1940	1941	1941	Yes
FLORIDA	EC	1933	x	x	1933	1937	x	No
GEORGIA	EC	x	x	x	x	x	x	No
HAWAII	I, EC	1929	1929	x	x	x	x	Yes
IDAHO	I	1929	1929	x	x	x	x	Yes
ILLINOIS	I	1929	1929 (b)	x	x	x	x	Yes
INDIANA	I, EC	1928	1928 (b)	x	x	x	x	Yes
IOWA	I, EC	1929	1929	x	x	x	x	Yes
KANSAS	I, EC	1941	x	x	x	x	x	Yes
KENTUCKY	I, EC	1942-L	repealed before 1939	1936-N	1942	x	x	Yes
LOUISIANA	I, EC, G	x	x	x	1940-S	x	x	Yes

MAINE	I, EC	x	x	1933-N	1933-N	x	x	No
MARYLAND	I, EC	1929	1929	1936-N	x	1945-U	1945-U	No
MASSACHUSETTS	I, EC	x	x	1933-N	1926-S	1943	1943	No
MICHIGAN	I, EC	1929	1929	1937-N	x	x	x	Yes
MINNESOTA	I, EC, G	x	x	x	1941-S	x	x	Yes
MISSISSIPPI	E	1928	S	1934-S	x	x	x	No
MISSOURI	I, EC	x	repealed in 1930	1941-S	x	x	x	Yes
MONTANA	I, EC	1945	S	x	x	x	x	Yes
NEBRASKA	I, EC	1945	1945	x	x	x	x	No
NEVADA	NO DEATH TAXES							
NEW HAMPSHIRE	I, EC	1927	S	1933-N	x	1942	x	No
NEW JERSEY	I, EC	x	x	1932-N	1926-N	1937	x	No
NEW MEXICO	I, EC	1929-L	x	x	x	x	x	Yes
NEW YORK	E	x	repealed in 1930	1932-N	1930-R	1941	x	No
NORTH CAROLINA	I, EC, G	x	x	1935-N	1933	x	x	Yes
NORTH DAKOTA	E	1931	x	x	x	x	x	Yes
OHIO	I, EC	1939	S	1933-N	x	x	x	Yes
OKLAHOMA	I, EC, G	1945-L	x	1939-L	x	x	x	Yes
OREGON	I, G	1927-L	x	1935-S	x	x	x	Yes
PENNSYLVANIA	I, EC	1929	1929	1933-N	x	1933	x	Yes
PHILIPPINE ISLANDS	I, E, G	1939	x	x	x	x	x	No
PUERTO RICO	I, G	x	x	x	x	x	x	No
RHODE ISLAND	I, EC, E, G	x	x	1932-N	1929	x	x	Yes
SOUTH CAROLINA	I, EC	1930	1930	x	x	x	x	Yes
SOUTH DAKOTA	I	1945	1945	x	x	x	x	No
TENNESSEE	I, EC, G	x	x	x	1929-N	x	x	No
TEXAS	I, EC	1945	x	x	x	x	x	Yes
UTAH	E	1943-L	x	x	x	x	x	Yes
VERMONT	I, EC	x	x	x	1919	1947-U	1947-U	No
VIRGINIA	I, EC, G	x	x	1932-N	1929-N	x	x	No
WASHINGTON	I, EC, G	x	repealed in 1929	x	1941	x	x	No
WEST VIRGINIA	I	1929	1929	x	x	x	x	Yes
WISCONSIN	I, EC, G	1945-L	x	1947-S	x	x	x	No
WYOMING	I	1929	1929	x	x	x	x	Yes